



General Assembly

Substitute Bill No. 6538

January Session, 2013



AN ACT CONCERNING ARBORISTS AND TREE WARDENS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) For the purposes of
2 sections 2 to 7, inclusive, of this act:

3 (1) "Arborist business" means any business that wholly, or in part,
4 holds itself out for hire to perform arboriculture.

5 (2) "Arboriculture" has the same meaning as provided in section 23-
6 61a of the general statutes.

7 (3) "Place of business" means any physical location at or through
8 which the functional operations of business regularly occur, including,
9 but not limited to, financial transactions, arrangement of contracts,
10 assignment of contracts, assignment of work and record keeping.
11 "Place of business" does not include buildings or locations used solely
12 for storage of equipment or supplies or any telephone answering
13 service.

14 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) No person shall engage
15 in the operation of an arborist business unless such person has a
16 certificate of registration from the Commissioner of Energy and
17 Environmental Protection. A certificate of registration shall expire on
18 the thirty-first day of August next succeeding its issuance. Any

19 arborist business with more than one place of business in the state or
20 that operates under more than one name shall register and pay the
21 application fee for each place of business and for each business name.

22 (b) Application for a certificate of registration shall be made on such
23 form as the commissioner may prescribe and with such information as
24 the commissioner deems necessary to fulfill the purposes of sections 2
25 to 7, inclusive, of this act, provided such information shall, at a
26 minimum, include the following: (1) The applicant's name and
27 residential address, (2) the name, address and telephone number of the
28 place of business, (3) the name and license number of the licensed
29 arborist employed by the arborist business, and (4) the type of
30 business. Each arborist business shall notify the commissioner of any
31 change in the information contained in an application or in the status
32 of the business as an arborist business. Such notification shall be
33 submitted, in writing, not more than thirty days after any change.

34 (c) An application for a certificate of registration shall be
35 accompanied by payment of a fee of two hundred forty dollars. The
36 commissioner may waive payment of the fee for the initial renewal of a
37 certificate of registration issued during the three months prior to
38 expiration of such certificate of registration. An application for a
39 certificate of registration or renewal shall not be deemed to be
40 complete or sufficient until the applicable fee is paid in full.

41 (d) Notwithstanding the provisions of section 22a-66c of the general
42 statutes, any person who complies with the registration requirements
43 of this section shall not be required to register such arborist business
44 pursuant to section 22a-66c of the general statutes if such arborist
45 business also engages in pesticide application.

46 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) The Commissioner of
47 Energy and Environmental Protection shall, after review of a complete
48 application submitted in accordance with the provisions of section 2 of
49 this act, issue or deny a certificate of registration. The commissioner
50 shall inform an applicant of a denial of a certificate of registration by

51 certified mail, return receipt requested. The commissioner shall briefly
52 state the reasons, as listed in subsection (c) of this section, for such
53 denial. Any applicant aggrieved by the commissioner's decision to
54 deny a certificate of registration may, not later than thirty days after
55 the date of such decision, request a hearing before the commissioner.
56 Such hearing shall be held in accordance with the provisions of chapter
57 54 of the general statutes.

58 (b) The commissioner may revoke or suspend a certificate of
59 registration in accordance with the provisions of subsection (c) of this
60 section and section 4-182 of the general statutes.

61 (c) The grounds for denial, revocation or suspension of a certificate
62 of registration shall include the following:

63 (1) Violation of any provision of chapter 441 or 451 of the general
64 statutes or any regulation, permit, certificate, registration or order
65 adopted, issued or administered or issued pursuant to said chapters
66 441 and 451;

67 (2) Inclusion of false or misleading information in an application or
68 the failure to notify the commissioner of a change, as required by
69 section 2 of this act;

70 (3) Inclusion of false or misleading information in records required
71 to be maintained pursuant to section 5 of this act, or the failure to
72 maintain such records or provide the commissioner with the records
73 required by section 5 of this act;

74 (4) Use of a pesticide in a manner inconsistent with the registered
75 labeling or with state or federal restrictions on the use of such
76 pesticide;

77 (5) Application of pesticides generally known in the trade to be
78 ineffective or improper for the intended use;

79 (6) Operation of faulty or unsafe equipment which may result in

80 improper pesticide application or harm to the environment, a worker
81 or other persons;

82 (7) Application of a pesticide or performance of arboriculture in a
83 faulty, careless or negligent manner;

84 (8) Aiding or abetting a licensed or unlicensed person to evade the
85 provisions of chapter 441 or 451 of the general statutes or any
86 regulation, permit, certificate, registration or order adopted, issued or
87 administered pursuant to said chapters 441 and 451;

88 (9) The making of a false or misleading statement during an
89 inspection or investigation concerning an infestation of pests, an
90 accident in applying a pesticide, misuse of a pesticide, or violation of a
91 statute, regulation, certificate, registration or order;

92 (10) The performance of arboriculture which does not meet
93 generally accepted industry standards;

94 (11) The performance of work, whether or not for compensation, in
95 a category for which the arborist is not certified; and

96 (12) The conviction of the applicant of a felony, as defined in section
97 53a-25 of the general statutes.

98 (d) Any arborist business whose certificate of registration is denied,
99 suspended or revoked shall not be eligible to reapply for a certificate of
100 registration until the commissioner determines that such applicant
101 may reapply.

102 (e) The commissioner shall not issue a certificate of registration or a
103 renewal of a certificate of registration to an arborist business unless
104 such arborist business submits the summary required pursuant to
105 subsection (d) of section 22a-58 of the general statutes for the previous
106 calendar year.

107 Sec. 4. (NEW) (*Effective October 1, 2013*) Each arborist business shall

108 employ at each place of business no fewer than one arborist licensed
109 pursuant to section 23-61b of the general statutes, as amended by this
110 act.

111 Sec. 5. (NEW) (*Effective October 1, 2013*) (a) Each arborist business
112 shall maintain records for not less than five years from the date such
113 record is made or amended, whichever is later. The record shall
114 indicate: (1) For each application of a pesticide made on behalf of the
115 business, (A) the name and certification number of the commercial
116 supervisor and the commercial operator, (B) the kind and amount of
117 pesticide used and the amount of acreage treated, if applicable, (C) the
118 date and place of application, (D) the pest treated for, and (E) the crop
119 or site treated; (2) a list of the names and corresponding United States
120 Environmental Protection Agency registration numbers of any
121 pesticide applied by the business; (3) the names and applicator
122 certification numbers of all certified commercial pesticide applicators,
123 whether operator or supervisory, who are employees or agents of the
124 arborist business, and a list of the types of applications that each
125 applicator performs; and (4) for each site where arboriculture not
126 involving the use of pesticides was performed: (A) The type of work
127 performed, including, but not limited to, pruning, trimming, cabling,
128 bracing, fertilization or treating cavities, (B) the date and place of work,
129 (C) the name and license number of the licensed arborist supervising
130 the work, and (D) the names of any unlicensed or licensed persons
131 performing the work under the supervision of the licensed arborist.

132 (b) Information required under subdivision (2) of subsection (a) of
133 this section may be kept separately from the records required by
134 subdivision (1) of subsection (a) of this section or may be integrated
135 with such records by including on the record of each pesticide
136 application the full name and the United States Environmental
137 Protection Agency registration number of the pesticide used.

138 (c) All records and information required to be kept pursuant to this
139 section shall be kept at the place of business for such arborist business
140 and may be inspected by the Commissioner of Energy and

141 Environmental Protection pursuant to section 22a-59 of the general
142 statutes. If the place of business for such arborist business is outside of
143 the state, the records and information shall be made available to the
144 commissioner at a location in the state not more than ten days after
145 receipt of a request for inspection from the commissioner.

146 (d) Each arborist business shall, upon written request, provide any
147 customer with a copy of the record which is required to be kept
148 pursuant to this section and which pertains to arboriculture performed
149 for such customer.

150 Sec. 6. (NEW) (*Effective October 1, 2013*) Any person who violates
151 any provision of sections 2 to 7, inclusive, of this act shall forfeit to the
152 state a sum not to exceed five thousand dollars per day for each day of
153 violation. The Attorney General, upon complaint of the Commissioner
154 of Energy and Environmental Protection, shall institute a civil action to
155 recover such forfeiture in the superior court for the judicial district of
156 Hartford. All actions brought by the Attorney General shall have
157 precedence in the order of trial as provided in section 52-191 of the
158 general statutes.

159 Sec. 7. (NEW) (*Effective October 1, 2013*) In any proceeding regarding
160 the denial, suspension or revocation of a certificate of registration, and
161 any proceeding pursuant to section 3 of this act, the action, omission or
162 failure to act of any officer, agent or other person acting for or
163 employed by the arborist business shall be deemed to be the action,
164 omission or failure to act of the arborist business as well as that of the
165 person employed.

166 Sec. 8. Section 23-61b of the general statutes is repealed and the
167 following is substituted in lieu thereof (*Effective October 1, 2013*):

168 (a) No person shall advertise, solicit or contract to do arboriculture
169 within this state at any time without a license issued in accordance
170 with the provisions of this section, except that any person may
171 improve or protect any tree on such person's own premises or on the

172 property of such person's employer without securing such a license
173 provided such activity does not violate the provisions of chapter 441,
174 subsection (a) of section 23-61a or this section. Application for an
175 examination for such license shall be made to the Commissioner of
176 Energy and Environmental Protection and shall contain such
177 information regarding the applicant's qualifications and proposed
178 operations and other relevant matters as the commissioner may
179 require and shall be accompanied by a fee of [fifty] two hundred
180 dollars which shall not be returnable.

181 (b) The commissioner shall require the applicant to show upon
182 examination that the applicant possesses adequate knowledge
183 concerning the proper methods of arboriculture and the dangers
184 involved and the precautions to be taken in connection with these
185 operations, together with knowledge concerning the proper use and
186 application of pesticides and the danger involved and precautions to
187 be taken in connection with their application. If the applicant is other
188 than an individual, the applicant shall designate an officer, member or
189 technician of the organization to take the examination, which designee
190 shall be subject to approval of the commissioner except that any
191 person who uses pesticides in arboriculture shall be licensed to do
192 arboriculture or shall be a licensed commercial applicator under
193 chapter 441. If the extent of the applicant's operations warrant, the
194 commissioner may require more than one such member or technician
195 to be examined. If the commissioner finds the applicant qualified, the
196 commissioner shall issue a license to perform arboriculture within this
197 state. A license shall be valid for a period of five years, provided the
198 commissioner may issue such licenses such that one-fifth of such
199 licenses expire each year and the commissioner may issue a license for
200 a period of less than five years and prorate the license fee accordingly.
201 If the commissioner finds that the applicant is not qualified, or if the
202 commissioner refuses to issue a license for any other reason, the
203 commissioner shall so inform the applicant in writing, giving reasons
204 for such refusal.

205 (c) The commissioner may issue a license without examination to
206 any nonresident who is licensed in another state under a law that
207 provides substantially similar qualifications for licensure and which
208 grants similar privileges of licensure without examination to residents
209 of this state licensed under the provisions of this section.

210 (d) Each licensee shall pay a license [renewal fee of one hundred
211 ninety] fee of two hundred eighty-five dollars for each license or
212 renewal. All examination and license [renewal] fees shall be deposited
213 as provided in section 4-32, and any expenses incurred by the
214 commissioner in making examinations, issuing certificates, inspecting
215 tree work or performing any duties of the commissioner shall be
216 charged against appropriations of the General Fund.

217 (e) Each licensee shall maintain and, upon request, furnish such
218 records concerning licensed activities as the commissioner may
219 require.

220 (f) The commissioner may suspend for not more than ten days and,
221 after notice and hearing as provided in any regulations established by
222 the commissioner, may suspend for additional periods, or the
223 commissioner may revoke, any license issued under this section if the
224 commissioner finds that the licensee is no longer qualified or has
225 violated any provision of section 23-61a or this section, or any
226 regulation adopted thereunder.

227 (g) The Commissioner of Energy and Environmental Protection, in
228 consultation with the board, shall establish standards for examining
229 applicants and reexamining applicators with respect to the proper use
230 and application of pesticides and [agricultural] arboricultural methods.
231 Such standards shall provide that in order to be certified, an individual
232 shall be competent with respect to the use and handling of pesticides
233 or the use and handling of the pesticide or class of pesticides covered
234 by such individual's application or certification and in the proper and
235 safe application of recognized arboricultural methods.

236 (h) Any licensed arborist shall be considered to be a certified
237 applicator under section 22a-54 with respect to the use of pesticides.

238 (i) Any person who is a certified supervisory pesticide applicator, as
239 described in section 22a-54, and who is also licensed as an arborist
240 pursuant to this section, shall not be required to pay a license fee
241 pursuant to this section provided such person pays any fee required
242 pursuant to section 22a-54.

243 Sec. 9. (NEW) (*Effective October 1, 2013*) (a) Not later than one year
244 after appointment or reappointment as a tree warden, pursuant to
245 section 23-58 of the general statutes, such tree warden shall
246 successfully complete coursework administered by the Commissioner
247 of Energy and Environmental Protection. The commissioner shall
248 administer coursework that is equivalent to the Tree Wardens
249 Association of Connecticut coursework.

250 (b) In the event that a tree warden fails to comply with the
251 provisions of subsection (a) of this section, the appointment or
252 reappointment of such tree warden shall become null and void and a
253 new tree warden shall be appointed pursuant to section 23-58 of the
254 general statutes.

255 (c) Upon written request of the chief elected official of the
256 municipality that appointed a tree warden, a six-month extension of
257 time may be granted for the purpose of the completion of the
258 coursework required pursuant to subsection (a) of this section.

259 (d) Each tree warden shall maintain a record of the completion of
260 the coursework required pursuant to subsection (a) of this section and,
261 upon request, furnish such records to the commissioner or the
262 commissioner's designee, and the municipal official who appointed
263 such tree warden.

264 (e) Any tree warden who successfully completes the Tree Wardens
265 Association of Connecticut coursework prior to the effective date of
266 this section shall be deemed by the commissioner to have successfully

267 completed the coursework required by this section provided, not later
268 than December 31, 2013, a duly authorized officer of the Tree Wardens
269 Association of Connecticut certifies to the commissioner, in writing,
270 that such tree warden has successfully completed the Tree Wardens
271 Association of Connecticut coursework.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	New section
Sec. 6	<i>October 1, 2013</i>	New section
Sec. 7	<i>October 1, 2013</i>	New section
Sec. 8	<i>October 1, 2013</i>	23-61b
Sec. 9	<i>October 1, 2013</i>	New section

ENV *Joint Favorable Subst.*

FIN *Joint Favorable*

PD *Joint Favorable*